

REMARKS

This last office action has been carefully considered.

Claims 1-7 and claims 14, 15 and 16 were previously canceled. New independent claim 17 has been added.

Applicant would like to thank the Examiner for graciously granting applicant's representative, Mr. Richard B. Klar, a telephonic interview on November 9, 2007. During that interview, it was agreed that an RCE would be filed along with an amendment including the proposed amendatory claim language to claim 8 as included herein. The Examiner stated that the language appears to define over the cited prior art of Holhbein but was subject to an updated search and that an amendment would not be entered without refilling the application.

In the last office action claims 8-13 were rejected under 35 USC 102(e) as being anticipated by US 2003/0043110 to Lindsey. Applicant respectfully traverses these rejections for the following reasons. Claim 8 has been amended herein. New independent claim 17 has been added herein. Great care has been exercised in the endeavor to avoid the introduction of new matter into the present specification.

Amended independent claim 8 now recites, in pertinent part:
A writing instrument comprising a barrel with bladders that are built into one end of the barrel that is adjacent a writing tip of the writing instrument, the barrel

having a cavity for housing an ink cartridge including the ink, the ink cartridge having a tip at one of said cartridge adapted to extend out of said cavity of said barrel to dispense said ink from said cartridge.

The patent publication to Hohlbein relates to a toothbrush with a hollow handle that has an outer sleeve made of an elastomeric material. It does not disclose or suggest a writing instrument with barrel having a cavity for housing an ink cartridge including ink, the ink cartridge having a tip at one of said cartridge adapted to extend out of said cavity of said barrel to dispense said ink from said cartridge. Nor does Hohlbein disclose or suggest a writing tip that extends out of a cavity of a barrel and dispensing ink from an ink cartridge is now recited amended claim 8 of the present application.

Further, Hohlbein does not have a writing tip contrary to the examiner's assertion. It is a toothbrush and would not be considered for writing in the sand or any other medium. It is respectfully submitted that the examiner is engaging in hindsight reconstruction of the claimed invention. Further Hohlbein does not disclose or suggest a tip that extending out of the cavity of a barrel as is now recited in amended independent claim 8 and claims 9-13 by virtue of their dependency on claim 8.

It is therefore respectfully submitted that Hohlbein does not disclose or suggest the aforementioned features of claim 8 or by way of their dependency on claim 8, claims 9-13.

New independent claim 17 recites in pertinent part that the tip extends out of the barrel and past the bladders, a feature of writing not all disclosed or suggested by the Hohlbein reference.

In view of the above amendments and arguments, it is respectfully requested that this rejection be withdrawn and that claims 8-13 be passed to issue.

The Examiner is urged to contact applicant's attorney at the number below to expedite the prosecution of this application.

Respectfully submitted,



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